

PURCHASE OF SERVICES CONTRACT

for Services Provided in Calendar Year **2011**

SECTIONS INCORPORATED WITHIN CONTRACT BASE

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ALSO INCORPORATED WITH CONTRACTUAL AGREEMENT

CONTRACT SUMMARY, original or as amended
ATTACHMENTS, as applicable under Section S
CURRENT LICENSURES and/or CERTIFICATIONS

A. PARTIES TO THE CONTRACT

1. This contract is between the PROVIDER listed on the Contract Summary; and the Jefferson County Human Services Department, whose business address is 1541 Annex Road, Jefferson, WI 53549, hereinafter referred to as the PURCHASER.
2. The contract administrator for the Provider is listed on the Contract Summary. The contract administrator for the Purchaser is Joan Daniel, Administration Services Manager. In the event that either of the contract administrators is unable to administer this contract, contracting parties are to be notified accordingly.

B. CONTRACT PERIOD

1. This contract will be in effect no earlier than January 1, 2011, and no later than December 31, 2011. Specific effective dates of this contract are as listed on the Contract Summary.

C. SERVICES TO BE PROVIDED

1. This contract and any applicable attachments and/or amendments to the contract are subject to the terms and conditions set forth in State/County Contracts covering Income Maintenance, W-2 programs, Social and Mental Hygiene Services, Community Youth and Family Aids, and other programs. Purchaser agrees to purchase and Provider agrees to provide to eligible clients services as listed on the Contract Summary.

D. PAYMENT FOR SERVICES PROVIDED

1. Amounts to be paid to the Provider by the Purchaser will be in accordance with rates, services, and recipients as listed on the Contract Summary.
2. The Provider is to submit billing statements to the Purchaser within three days after the month of service. If received and approved in a timely manner, payment will be made to Provider by the fifteenth of the month. Billings not received by January 31 after the close of the contract year will not be honored for payment.
3. The Provider shall return to Purchaser excess funds paid. The Provider will adhere to the Wisconsin Department of Health and Social Services' Accounting Principles and Allowable Costs Policies Manual.
4. The Purchaser will make payments to the Provider only for actual service provided, except for authorized absenteeism, unless otherwise mutually agreed upon between the Provider and the Purchaser.
5. Advance payments to the Provider are not allowed under this contract.
6. Medical Providers are to only bill the Purchaser services for which there is no third party payment source and no potential for recovery from first party payment sources. Purchaser is to be billed the lesser of "Usual and Customary" charges or actual charges.

E. BILLING AND COLLECTION PROCEDURES

1. Providers other than general hospitals, who have been delegated responsibility for billing of services provided under this contract, will do so in accordance with section 46.03(18) of the Wisconsin Statutes and Wisconsin Administrative Code HSS 1. Fees collected will be deducted from amounts paid under this contract, unless reimbursement amounts as shown represent the Purchaser share of the charges only.

F. ELIGIBILITY STANDARDS FOR RECIPIENTS OF SERVICE

1. Eligibility of individuals to receive services under this contract will be determined by the Purchaser. Individuals are entitled to the right of an administrative hearing concerning eligibility, and the Provider will inform them accordingly.

G. INDEMNITY AND INSURANCE

1. The Provider agrees that it will at all times during the existence of this contract indemnify the Purchaser against any and all loss, damages, and costs or expenses which Purchaser may sustain, incur, or be required to pay by reason of any eligible client's suffering, personal injury, death, or property loss resulting from participating in or receiving the care and services furnished by the Provider under this contract. This provision does not apply to liabilities, losses, charges, costs, or expenses caused by the Purchaser.
2. The Provider agrees that to protect itself as well as the Purchaser under the indemnity provision set forth in the preceding paragraph, will at all times during the term of this contract keep in force a liability insurance policy issued by a company authorized to do business in the State of Wisconsin and licensed by the Wisconsin Insurance Department. The Provider will furnish written verification upon request of the Purchaser.

H. AFFIRMATIVE ACTION AND CIVIL RIGHTS COMPLIANCE

1. The Provider, where applicable, agrees to submit to the Purchaser a current copy of the Subrecipient Civil Rights Compliance Action Plan (CRC) for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Titles VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981, and the Americans with Disabilities Act (ADA) of 1990, and the Wisconsin Fair Employment Act.
2. No otherwise qualified person shall be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination in any manner on the basis of race, color, national origin, sex, disability, or age. This policy covers eligibility for and access to service delivery, and treatment in all programs and activities.
3. No otherwise qualified person shall be excluded from employment, be denied the benefits of employment, or otherwise be subject to discrimination in employment in any manner or term of employment on the basis of age, race, religion, color, sex, national origin or ancestry, handicap (as defined in Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, physical condition, developmental disability (as defined in section 51.05(5) of the Wisconsin Statutes), arrest or conviction record (in keeping with section 111.32 of the Wisconsin Statutes), sexual orientation, marital status, or military

participation. All employees are expected to support goals and programmatic activities relating to non-discrimination in employment.

4. The Provider shall post the Equal Opportunity Policy, the name of the Equal Opportunity Coordinator, and the discrimination complaint process in conspicuous places available to applicants and clients of services, applicants for employment, and employees. The complaint process will be in accordance with standards and will be made available in languages as appropriate and formats understandable to applicants, clients, and employees.
5. The Provider agrees that it will employ and/or make available resources for communication with non-English speaking clients when applicable, train staff in human relation techniques and sensitivity to cultural patterns where appropriate, and make arrangements and/or modifications to meet the needs of handicapped persons.
6. The Purchaser will take appropriate steps to ensure compliance to affirmative action and civil rights requirements.

I. INITIATION OF CONTRACT

1. Contractual relationship between the Provider and the Purchaser will begin as stated on the Contract Summary, upon signature of both parties on the Contract Summary.
2. The original contract for any given calendar year will include the Purchase of Services Contract base, a signed Contract Summary, and applicable attachments. The Provider must attach copies of current licensures and certifications pertaining to services provided under the contract.
3. Most Adult Alternate Care Providers (e.g. CBRF, AFH, RCAC) must submit an "Annual Operating Budget Worksheet" and a ~~Staffing Worksheet~~. If required, but not submitted, payments will be withheld until this information is submitted.

J. AMENDMENTS TO CONTRACT

1. Amendments to the contract will be executed via amended Contract Summaries, to incorporate items such as the addition of clients authorized for services, rates to bill, service additions, etc. Signatures by the authorized representatives will signify acceptance of the items added or changed, and will accordingly supersede previously signed Contract Summaries.

K. RENEGOTIATION OF CONTRACT

1. This contract or any part thereof must be renegotiated if there are significant changes in services provided, federal or state laws or regulations, court action, or monies available affecting the substance of this contract.

L. TERMINATION OF CONTRACT

1. Failure to comply with any material aspect of this contract is considered to be a breach of contract, and may be cause for revision, suspension, or termination of the contract.
2. Revisions of this contract must be agreed to by the Provider and the Purchaser in the form of an amendment to the contract and/or an amended Contract Summary.
3. The Provider must notify the Purchaser whenever unable to provide the quality or quantity of services in accordance with this contract.
4. For situations where this contract is terminated for reasons other than non-performance by the Provider or lack of services being provided to authorized eligible recipients, payment may be made to the Provider for amounts mutually agreed upon between the Provider and the Purchaser.
5. This contract may be terminated on a general basis upon thirty days written notice.

M. RESOLUTION OF DISPUTES

1. Any disputes arising through the course of this contract may be appealed in accordance with the terms and conditions of this contract and/or Chapter 68 of the Wisconsin Statutes.

N. RECORDS

1. The Provider will maintain such records and financial statements as required by state and federal laws, rules, and regulations, or as prescribed by the Purchaser.
2. The provider will allow inspection of records and programs, insofar as permitted by state and federal laws, by representatives of the Purchaser and/or applicable state and federal agencies, in order to confirm the Provider's compliance with the specifications of this contract and funding requirements.
3. The use or disclosure by any party of any information concerning eligible recipients of service for purposes not connected with the administration of the Provider's or Purchaser's responsibilities under this contract is prohibited, except with the informed written consent of the eligible client or the client's legal guardian.

O. REPORTING

1. The Provider will comply with all reporting requirements of the Purchaser, as well as reporting requirements in accordance with state and federal rules and regulations, including, but not limited to, submission of operating budgets and financial reports upon request by the Purchaser.

P. PROVIDER RESPONSIBILITIES

1. The Provider agrees to meet state and federal service standards and applicable state licensure and certification requirements as expressed by state and federal rules and regulations applicable.
2. The Provider will cooperate with and provide information to the Purchaser to establish costs for reimbursement purposes, and/or for other purposes pursuant to services provided under this contract. Examples include Operating Budgets, Staffing Worksheets, etc.
3. The Provider will maintain a uniform double entry accounting system and a management information system compatible with cost accounting and control systems, in accordance with the Wisconsin DHSS Accounting Principles and Allowable

Costs Policies Manual, unless this requirement is specifically waived. This requirement does not apply to general hospitals. Family group homes and adult family homes are allowed to use a simplified accounting system in lieu of this requirement.

4. Providers will transfer a client from a category of service to another only upon approval of the Purchaser.
5. If the Provider wishes to subcontract any service under this contract, a request must be submitted to the Purchaser who retains the right to disallow subcontracting of services at its discretion.
6. The Provider will do criminal background checks on all staff and employees in accordance with standards, will maintain up-to-date documentation, and will submit documentation to the Purchaser upon request.
7. The Provider will assure that all staff and employees will be adequately trained in accordance with standards, will maintain documentation of training, and will provide documentation to the Purchaser upon request.
8. The Provider will inform the Purchaser's Case Manager of any incident that does or may endanger the safety, health, or well-being of the Client(s).
9. The Provider will assure the establishment of safeguards to prevent employees, owners, consultants, or members of the Board from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business, or other ties.

Q. PROVIDER AUDIT REQUIREMENTS

1. The Provider must submit to the Purchaser an annual program or agency-wide audit, unless the audit requirement is waived. The audit is to be in accordance with the following publications as applicable: ~~OMB Circular A-133~~, ~~State Single Audit Guidelines~~. Where an audit is not waived, the Provider is to submit to the Purchaser, within 180 days from the end of the Provider's fiscal year, the following: all audit schedules and reports, a summary schedule of prior year findings and status of addressing the findings, Management Letter (or comparable), management responses and corrective action plan for each audit issue identified in the audit, and other applicable documents as requested by the Purchaser. Access to audit workpapers and other audit materials will be provided to the Purchaser upon request. The Purchaser, upon request, will supply identification of funding sources making up contract payments to the Provider. Failure to comply with provider audit requirements will be considered to be a material breach of contract.

R. CONDITIONS OF THE PARTIES' OBLIGATIONS

1. This contract is contingent upon authorization of state and federal laws. Material amendments or repeal affecting funding or authority of the applicable parties will terminate this contract.
2. Nothing contained in this contract shall be construed to supersede the lawful rights or duties of either party.
3. It is understood that this contract, including applicable attachments and amendments, is the complete and final agreement, superseding any oral agreements or other negotiations which may conflict with the terms of the contract.
4. The Provider will notify the Purchaser in writing of all written complaints against the Provider.
5. The Provider is responsible to maintain applicable licensing and certification status, and will furnish the Purchaser with copies of the most recent licensing and/or certification reports concerning the Provider. The Provider must notify the Purchaser if there is a change in licensure or certification status.
6. The Provider will furnish the Purchaser with its employer identification number. If the Provider does not have an employer identification number, the social security number of the Provider will be furnished.

S. ATTACHMENTS TO THE CONTRACT

1. Attachments to the contract are material components of the contractual agreement.
2. If services provided under the contract include the provision of Adult Alternate Care services (such as C.B.R.F. or Adult Family Care), the contract will include an "Attachment to the Contract for Adult Alternate Care". Services considered to be "Personal Care" will be covered under the "Attachment to the Contract for Personal Care Services". Services considered to be ~~Independent Living~~ (aka Supervised Apartments) will be covered under the ~~Attachment to the Contract for Independent Living Services~~.
3. If services provided under the contract include the provision of Personal Care for residents of adult alternate care facilities, the contract will include an "Attachment to the Contract for Personal Care Services".
4. If services provided under the contract include the provision of Independent Living services, the contract will include an ~~Attachment to the Contract for Independent Living Services~~.
5. If services provided under the contract include the provision of Comprehensive Community Services (CCS), the contract will include an ~~Attachment to the Contract for CCS Services~~.
6. If services provided under the contract include Respite Care for individuals living in their own homes, and the respite care services are being provided by an Alternate Care Provider, the contract will include an ~~Attachment to the Contract for Respite Care Placements~~.
7. If services provided under the contract include the provision of specialized alternate care to children (Child Caring Institution, Child Group Home, or Treatment Foster Home), the contract will include an "Interagency Agreement" for certain alternate care services to children.

T. LOBBYING CERTIFICATION

1. The Provider assures that no federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence officers or employees of any agency, members of Congress, officers or employees of Congress, or employees of members of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence officers or employees of any agency, members of Congress, officers or employees of Congress, or

employees of members of Congress in connection with this contract, the Provider shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying".

3. The Provider shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed. Acknowledgment is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

U. H.I.P.A.A. COMPLIANCE

1. Statement of Intent

- a. The Healthcare Insurance Portability and Accountability Act of 1996, Public Law No. 104-191; **American Recovery and Reinvestment Act of 2009 (ARRA)**.
- b. The Federal Law known as HIPAA establishes national standards to protect the privacy of health care information that is defined as PHI. Additional confidentiality protections for healthcare information are found in other federal laws, and state law. This section of the contract covers the basic HIPAA requirements a Provider not otherwise covered by HIPAA must follow when: the Provider performs or assists in performing a function or activity that involves use or disclosure of individually identifiable health information on behalf of the Purchaser; when a Provider must report a breach, incident or complaint to the Purchaser; **the use of valid encryption to render unusable, unreadable, or indecipherable to unauthorized individuals through the use of technology or methodology specified under ARRA Guidance or destroyed (paper- shredded, electronic media cleared, purged or destroyed consistent with NIST guidelines); and circumstances when the Purchaser may terminate the contract because of non-compliance.** The extent of any Provider's observance will depend on the type of Provider and how protected health care information is to be shared, created, used and maintained.
- c. The sections of HIPAA known as the Privacy Rule and the Security Standards Rule, as enhanced by ARRA, require Purchasers to include specific provisions in agreements with Providers not otherwise covered by HIPAA to safeguard protected health information.

2. HIPAA Regulatory Definitions . Terms used but otherwise not defined will have the meaning as defined in HIPAA.

- a. Individual . Person who is the subject of protected health information. Purchaser uses the term "client".
- b. Minimum Necessary . The use within, or disclosure outside of, the Provider, of only the reasonably necessary PHI to perform a particular function, activity, or service. Includes PHI used or disclosed for treatment, payment and other healthcare activities.
- c. Privacy Rule . The HIPAA standards to protect any individually identifiable health care information, oral or written (including PHI transmitted by FAX machine) created, received, maintained, or transmitted for or on behalf of the Purchaser. Under the Privacy Rule, a privacy breach occurs if a use or disclosure of PHI, whether due to a malicious or unintentional act, causes harm to the individual.
- d. Protected Healthcare Information (PHI) . The HIPAA terminology for an individual's confidential healthcare information, whether written or oral, relating to the past, present, or future physical or mental condition, or provision or payment of health care, that is used or disclosed by the entities that are subject to this rule. PHI on computer is also known as electronic PHI (e-PHI). A Designated Record Set (DRS) is a defined group of records containing PHI, maintained by a Provider for the Purchaser, used to make decisions about individuals.
 - i. PHI includes the following information when associated with healthcare information unless "de-identified" per the Privacy Rule: client name; date of birth; address; telephone number; FAX number; E-mail address; social security number; medical record number; health plan beneficiary numbers; account numbers; certificate license numbers; vehicle identifier and license numbers; full-face photographic images; device identifiers and serial numbers; Web Universal Resource Locators (URLs); Internet Protocol (IP) address numbers; and biometric identifiers including finger and voice prints and any other unique characteristic and/or code that may identify a client.
- e. Security Rule . The HIPAA standards to protect the confidentiality, integrity and availability of PHI the Provider creates, receives, maintains or transmits on computer, for or on behalf of the Purchaser. Under this Rule, a Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI or interference with system operations in a computer that affects PHI.
- f. Secretary . Shall mean Secretary of the Department of Health and Human Services or designee.

3. Obligations and Activities of Provider on Behalf of the Purchaser

- a. **Provider agrees to not use or disclose PHI; to use appropriate safeguards to prevent use or disclosure of PHI; to mitigate, to the extent practicable, any harmful effect that becomes known to the Provider of a use or disclosure of PHI by the Provider in violation of the requirements of this Contract; to report to the Purchaser any use or disclosure of PHI, all of proceeding not provided for or by this Contract of which it becomes aware.**
- b. **Provider agrees to ensure that any agent, including a subcontractor, to whom it provides PHI in a Designated Record Set (DRS) agrees to the same restrictions, conditions, access and amendment to pursuant to HIPAA amendment provisions at the request of the Purchaser or client, and within a time period mutually agreed upon that apply via this Contract to the Provider with respect to such information.**
- c. Provider agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from or created or received by the Provider on behalf of the Purchaser, available for the Secretary to determine Purchaser's compliance with HIPAA.
- d. Provider agrees to document such disclosures of PHI and related information as would be required for Purchaser to respond to a request by a client for an accounting of disclosures of PHI **within seven days of written request.**
- e. **Provider agrees to provide to the Purchaser or a client, information for an accounting of disclosures of PHI.**

Treatment, Payment, or Healthcare Operations disclosures through an Electronic Health Record shall be included based on the ARRA schedule of no later than January 1, 2011, the date the Covered Entity acquires and Electronic Health Record or if already using an Electronic Health Record on or after January 1, 2014.

4. Obligations and Activities of Purchaser
 - a. The Purchaser shall communicate to the Provider any restriction covered by the Purchaser's own HIPAA Notice of Privacy Practices. The Purchaser shall notify the Provider of any changes in, or revocation of, permission to use or disclose PHI, to the extent that such changes may affect Provider's use or disclosure of PHI. The Purchaser shall notify the Provider of any restriction that affects the use and disclosure of PHI. The Purchaser shall not request the Provider use or disclose PHI in a manner not permissible under HIPAA.
5. Permitted Uses and Disclosures by Provider
 - a. General Use and Disclosure . Except as Otherwise Limited per this Contract.
 - i. Provider Functions and Activities - The Provider may use or disclose PHI if such use or disclosure would not violate the Privacy Rule if done by the Purchaser or the minimum necessary policies and procedures of the Purchaser, to perform the contracted functions, activities, or services for or on behalf of the Purchaser.
 - b. Specific Use and Disclosure . Except as Otherwise Limited per this Contract.
 - i. Provider's Own Operations . The Provider may use PHI for:
 1. Proper management and administration to carry out legal responsibilities when reasonable assurances are made that the information disclosed will remain confidential, and used and further disclosed only as required by Law or for the purpose it was disclosed; and,
 2. Report to the Purchaser a Privacy Breach under the Privacy Rule, a Security Incident under the Security Rule and/or client complaint under either; and,
 3. A Provider so contracted may use PHI to provide Data Aggregation Services to the Purchaser and may combine data with its other data to use for research, analytic, and similar purposes, provided that no client or the Purchaser may be identifiable; and,
 4. To report violations of Law to appropriate Federal and State authorities.
6. Term and Termination
 - a. Effective Term - This agreement shall be effective as of the date in the Contract Summary, and shall terminate when all PHI is destroyed in a secure manner, returned to the Purchaser, or if not feasible to return or destroy protections are extended to such information, in accordance with the termination provisions in this section.
 - b. Termination for Cause . If the Purchaser becomes aware of a material privacy breach or security incident involving PHI, options available to the Purchaser include:
 - i. Provide an opportunity for the Provider to cure the breach or end the violation and terminate this contract if Provider does not cure or end within a time period mutually agreed upon.
 - ii. Immediately terminate the Contract if the Provider has breached a material term and it is concluded by the Purchaser that cure is not possible.
 - iii. If neither termination nor cure is feasible, the Purchaser shall report the violation to the Secretary.
 - c. Effect of Termination
 - i. Upon termination of this contract, except as provided in paragraph 6.c.ii., the Provider shall return or destroy all PHI created, received or maintained on behalf of the Purchaser. This provision shall apply to PHI that is in the possession of the Provider, and subcontractors or agents of the Provider. The Provider shall retain no copies of the PHI.
 - ii. The Provider will notify the Purchaser if returning, or destroying the PHI in a secure manner, is not feasible. If the Purchaser is unable to assist the Provider in returning or destroying, the Provider shall extend the protection of this Agreement to the PHI to limit further uses and disclosures to those purposes that make the return or destruction not feasible, for as long as the Provider maintains the PHI.
7. Miscellaneous
 - a. Regulatory References. A reference in this Contract to a section in the Privacy or Security Rule means the sections as in effect or as amended.
 - b. Amendment. The parties agree to take such action as is necessary to amend this Contract from time-to-time as is necessary for the Purchaser to comply with the requirements of HIPAA.
 - c. Survival. The respective rights and obligations of the Provider shall survive the termination of this Contract.
 - d. Interpretation. Any ambiguity in this Contract shall be resolved to permit the Purchaser to comply with HIPAA.

V. SIGNATURES OF THE PARTIES

1. By signature of the parties on the Contract Summary it is agreed to comply with all terms and conditions as specified within the contract, as well as any and all attachments and amendments.

U. H.I.P.A.A. COMPLIANCE

8. Statement of Intent
 - a. The Healthcare Insurance Portability and Accountability Act of 1996, Public Law No. 104-191; **American Recovery and Reinvestment Act of 2009 (ARRA)**.
 - b. The Federal Law known as HIPAA establishes national standards to protect the privacy of health care information that is defined as PHI. Additional confidentiality protections for healthcare information are found in other federal laws, and state law. This section of the contract covers the basic HIPAA requirements a Provider not otherwise covered by HIPAA must follow when: the Provider performs or assists in performing a function or activity that involves use or disclosure of individually identifiable health information on behalf of the Purchaser; when a Provider must report a breach, incident or complaint to the Purchaser; **the use of valid encryption to render unusable, unreadable, or indecipherable to unauthorized individuals through the use of technology or methodology specified under ARRA Guidance or destroyed (paper- shredded, electronic media cleared, purged**

- or destroyed consistent with NIST guidelines); and circumstances when the Purchaser may terminate the contract because of non-compliance. The extent of any Provider's observance will depend on the type of Provider and how protected health care information is to be shared, created, used and maintained.
- c. The sections of HIPAA known as the Privacy Rule and the Security Standards Rule, as enhanced by ARRA, require Purchasers to include specific provisions in agreements with Providers not otherwise covered by HIPAA to safeguard protected health information.
9. HIPAA Regulatory Definitions . Terms used but otherwise not defined will have the meaning as defined in HIPAA.
- a. Individual . Person who is the subject of protected health information. Purchaser uses the term "client".
 - b. Minimum Necessary . The use within, or disclosure outside of, the Provider, of only the reasonably necessary PHI to perform a particular function, activity, or service. Includes PHI used or disclosed for treatment, payment and other healthcare activities.
 - c. Privacy Rule . The HIPAA standards to protect any individually identifiable health care information, oral or written (including PHI transmitted by FAX machine) created, received, maintained, or transmitted for or on behalf of the Purchaser. Under the Privacy Rule, a privacy breach occurs if a use or disclosure of PHI, whether due to a malicious or unintentional act, causes harm to the individual.
 - d. Protected Healthcare Information (PHI) . The HIPAA terminology for an individual's confidential healthcare information, whether written or oral, relating to the past, present, or future physical or mental condition, or provision or payment of health care, that is used or disclosed by the entities that are subject to this rule. PHI on computer is also known as electronic PHI (e-PHI). A Designated Record Set (DRS) is a defined group of records containing PHI, maintained by a Provider for the Purchaser, used to make decisions about individuals.
 - i. PHI includes the following information when associated with healthcare information unless "de-identified" per the Privacy Rule: client name; date of birth; address; telephone number; FAX number; E-mail address; social security number; medical record number; health plan beneficiary numbers; account numbers; certificate license numbers; vehicle identifier and license numbers; full-face photographic images; device identifiers and serial numbers; Web Universal Resource Locators (URLs); Internet Protocol (IP) address numbers; and biometric identifiers including finger and voice prints and any other unique characteristic and/or code that may identify a client.
 - e. Security Rule . The HIPAA standards to protect the confidentiality, integrity and availability of PHI the Provider creates, receives, maintains or transmits on computer, for or on behalf of the Purchaser. Under this Rule, a Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI or interference with system operations in a computer that affects PHI.
 - f. Secretary . Shall mean Secretary of the Department of Health and Human Services or designee.
10. Obligations and Activities of Provider on Behalf of the Purchaser
- a. Provider agrees to not use or disclose PHI; to use appropriate safeguards to prevent use or disclosure of PHI; to mitigate, to the extent practicable, any harmful effect that becomes known to the Provider of a use or disclosure of PHI by the Provider in violation of the requirements of this Contract; to report to the Purchaser any use or disclosure of PHI, all of proceeding not provided for or by this Contract of which it becomes aware.
 - b. Provider agrees to ensure that any agent, including a subcontractor, to whom it provides PHI in a Designated Record Set (DRS) agrees to the same restrictions, conditions, access and amendment to pursuant to HIPAA amendment provisions at the request of the Purchaser or client, and within a time period mutually agreed upon that apply via this Contract to the Provider with respect to such information.
 - c. Provider agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from or created or received by the Provider on behalf of the Purchaser, available for the Secretary to determine Purchaser's compliance with HIPAA.
 - d. Provider agrees to document such disclosures of PHI and related information as would be required for Purchaser to respond to a request by a client for an accounting of disclosures of PHI within seven days of written request.
 - e. Provider agrees to provide to the Purchaser or a client, information for an accounting of disclosures of PHI. Treatment, Payment, or Healthcare Operations disclosures through an Electronic Health Record shall be included based on the ARRA schedule of no later than January 1, 2011, the date the Covered Entity acquires and Electronic Health Record or if already using an Electronic Health Record on or after January 1, 2014.
11. Obligations and Activities of Purchaser
- a. The Purchaser shall communicate to the Provider any restriction covered by the Purchaser's own HIPAA Notice of Privacy Practices. The Purchaser shall notify the Provider of any changes in, or revocation of, permission to use or disclose PHI, to the extent that such changes may affect Provider's use or disclosure of PHI. The Purchaser shall notify the Provider of any restriction that affects the use and disclosure of PHI. The Purchaser shall not request the Provider use or disclose PHI in a manner not permissible under HIPAA.
12. Permitted Uses and Disclosures by Provider
- a. General Use and Disclosure . Except as Otherwise Limited per this Contract.
 - i. Provider Functions and Activities - The Provider may use or disclose PHI if such use or disclosure would not violate the Privacy Rule if done by the Purchaser or the minimum necessary policies and procedures of the Purchaser, to perform the contracted functions, activities, or services for or on behalf of the Purchaser.
 - b. Specific Use and Disclosure . Except as Otherwise Limited per this Contract.
 - i. Provider's Own Operations . The Provider may use PHI for:
 1. Proper management and administration to carry out legal responsibilities when reasonable assurances are made that the information disclosed will remain confidential, and used and further disclosed only as required by Law or for the purpose it was disclosed; and,
 2. Report to the Purchaser a Privacy Breach under the Privacy Rule, a Security Incident under the Security Rule and/or client complaint under either; and,

3. A Provider so contracted may use PHI to provide Data Aggregation Services to the Purchaser and may combine data with its other data to use for research, analytic, and similar purposes, provided that no client or the Purchaser may be identifiable; and,
4. To report violations of Law to appropriate Federal and State authorities.

13. Term and Termination

- a. **Effective Term** - This agreement shall be effective as of the date in the Contract Summary, and shall terminate when all PHI is destroyed in a secure manner, returned to the Purchaser, or if not feasible to return or destroy protections are extended to such information, in accordance with the termination provisions in this section.
- b. **Termination for Cause** . If the Purchaser becomes aware of a material privacy breach or security incident involving PHI, options available to the Purchaser include:
 - i. Provide an opportunity for the Provider to cure the breach or end the violation and terminate this contract if Provider does not cure or end within a time period mutually agreed upon.
 - ii. Immediately terminate the Contract if the Provider has breached a material term and it is concluded by the Purchaser that cure is not possible.
 - iii. If neither termination nor cure is feasible, the Purchaser shall report the violation to the Secretary.
- c. **Effect of Termination**
 - i. Upon termination of this contract, except as provided in paragraph 6.c.ii., the Provider shall return or destroy all PHI created, received or maintained on behalf of the Purchaser. This provision shall apply to PHI that is in the possession of the Provider, and subcontractors or agents of the Provider. The Provider shall retain no copies of the PHI.
 - ii. The Provider will notify the Purchaser if returning, or destroying the PHI in a secure manner, is not feasible. If the Purchaser is unable to assist the Provider in returning or destroying, the Provider shall extend the protection of this Agreement to the PHI to limit further uses and disclosures to those purposes that make the return or destruction not feasible, for as long as the Provider maintains the PHI.

14. Miscellaneous

- a. **Regulatory References**. A reference in this Contract to a section in the Privacy or Security Rule means the sections as in effect or as amended.
- b. **Amendment**. The parties agree to take such action as is necessary to amend this Contract from time-to-time as is necessary for the Purchaser to comply with the requirements of HIPAA.
- c. **Survival**. The respective rights and obligations of the Provider shall survive the termination of this Contract.
- d. **Interpretation**. Any ambiguity in this Contract shall be resolved to permit the Purchaser to comply with HIPAA.

V. SIGNATURES OF THE PARTIES

2. By signature of the parties on the Contract Summary it is agreed to comply with all terms and conditions as specified within the contract, as well as any and all attachments and amendments.

Signature of Provider

Administrative Services Division Manager, JCHS

Date of Signature

Date of Signature